



be granted,” a court must determine whether the complaint is legally and factually sufficient. See Fed. R. Civ. P. 12(b)(6); Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949–50 (2009); Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007); Giarratano v. Johnson, 521 F.3d 298, 302 (4th Cir. 2008); Goodman v. Praxair, Inc., 494 F.3d 458, 464 (4th Cir. 2007) (en banc); accord Erickson v. Pardus, 551 U.S. 89, 93–94 (2007) (per curiam). A court need not accept a complaint’s legal conclusions, elements of a cause of action, and bare assertions devoid of further factual enhancement. See, e.g., Ashcroft, 129 S. Ct. at 1949–50; Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc., 591 F.3d 250, 255 (4th Cir. 2009). Similarly, a court need not accept as true “unwarranted inferences, unreasonable conclusions, or arguments.” Giarratano, 521 F.3d at 302 (quotation omitted); see Ashcroft, 129 S. Ct. at 1949–50. Furthermore, in analyzing a Rule 12(b)(6) motion to dismiss, a court may consider “documents incorporated into the complaint by reference, and matters of which a court may take judicial notice.” Tellabs, Inc. v. Makor Issues & Rights, Ltd., 551 U.S. 308, 322 (2007).

Song is proceeding pro se, and the court construes the allegations in his pro se complaint liberally. See, e.g., Erickson, 551 U.S. at 94. However, “[w]hile pro se complaints may represent the work of an untutored hand requiring special judicial solicitude, a district court is not required to recognize obscure or extravagant claims defying the most concerted efforts to unravel them.” Weller v. Dep’t of Soc. Servs., 901 F.2d 387, 391 (4th Cir.1990) (quotations omitted).

Song’s amended complaint is grounded in 42 U.S.C. § 1983 and the Vienna Convention on Consular Relations. Remarkably, however, the complaint makes no allegations that Welch and Fitzgerald engaged in any wrongdoing. Rather, only one exhibit attached to the complaint mentions them and it indicates that they arrested Song on November 18, 2003, in Fayetteville pursuant to outstanding Tennessee arrest warrants [D.E. 1-1, at 47–48; D.E. 14-8, at 6–7]. Thus, the amended complaint fails to state a claim. Moreover, if Song (who is a Korean national) contends that Welch and Fitzgerald violated the Vienna Convention on Consular Relations by failing to notify the Korean Consulate of his arrest, the claim fails. See, e.g., Gandara v. Bennett, 528 F.3d 823, 825, 827–29

(11th Cir. 2008); see also Murphy v. Netherland, 116 F.3d 97, 100 (4th Cir. 1997). Accordingly, Song has failed to state a claim against Welch and Fitzgerald, and the court grants their motion to dismiss [D.E. 51].

Song's section 1983 claim fails for another reason: the statute of limitations. Song's section 1983 claim against Welch and Fitzgerald stems from their conduct on November 18, 2003. However, Song did not file suit until February 17, 2009 [D.E. 1]. Thus, North Carolina's three-year statute of limitations bars Song's section 1983 claim against Welch and Fitzgerald. See, e.g., Wallace v. Kato, 549 U.S. 384, 387–88 (2007); Nat'l Adver. Co. v. City of Raleigh, 947 F.2d 1158, 1161–62 (4th Cir. 1991).

Song has filed a variety of motions. The motions [D.E. 43, 44, 47, 50, 53, 55, 56, 61, 63] lack merit and are denied.

In sum, the court GRANTS Welch and Fitzgerald's motion to dismiss [D.E. 51] and DENIES Song's motions [D.E. 43, 44, 47, 50, 53, 55, 56, 61, 63].

SO ORDERED. This 16 day of July 2010.

  
JAMES C. DEVER III  
United States District Judge